

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH.

M.P. NO. 84 of 1987

in

Original Application No.65 of 1987.

Shri Sukhdeo Laxman,  
R/o Ajni, Nagpur.

.. Applicant

-vs.-

1. Union of India,  
through the General Manager,  
Central Railway,  
V.T. Bombay.
2. Divisional Railway Manager,  
Central Railway, Nagpur Division,  
Nagpur.
3. Divisional Mechanical Engineer(Power)  
Central Railway, Nagpur.
4. Chief Operating Superintendent  
(Reviewing Authority)  
Central Railway,  
V.T. Bombay.

.. Respondents.



Coram: HON'BLE MR. JUSTICE K.S.PUTTASWAMY  
VICE-CHAIRMAN.

HON'BLE MR. L.H.A. REGO .. MEMBER(A)

Appearances:

1. Shri D.J.Niley, Advocate  
for the applicant.
2. Shri S.R.Atre (for Mr.P.M.Pradhan)  
for the respondents.

ORAL JUDGMENT

.. Dated: 16-7-1987

(Per Hon'ble Shri K.S.Puttaswamy, Vice Chairman)

This is an application made by the applicant  
under Section 19 of the Administrative Tribunals Act,  
1985.

2. At the material time, the applicant was working  
as <sup>Shunter</sup> Shunter at Nagpur Railway Station of the Central Railway  
Zone of Indian Railways. In a disciplinary proceedings

instituted

instituted against the applicant for dereliction of duty on 19-7-1983, the disciplinary authority, by his order No.M/DAR/L/585/5 dated 9-5-1984 (Annexure-B) imposed on him, the penalty of removal from service. Aggrieved by this order, the applicant filed an appeal before the Appellate Authority, who by his order No.M/DAR/L/585/5, dated 17-7-1984, dismissed the same. Aggrieved by these orders, the applicant filed a Revision Petition before the Reviewing authority, who by his order made on 12-2-1985, dismissed the same. On 16-1-1987, the applicant has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985 (Act) challenging these orders.


2. In making his application under Sec.19 of the Act, there is a delay of about 9 months and in Misc. Petition No.84/87, the applicant has sought for condonation of the same, on the various facts and circumstances narrated therein.

3. Mr.Niley, learned Counsel for the applicant, contends that all the facts and circumstances set out in the miscellaneous petition constitute a sufficient ground for condonation of delay.

4. Mr.S.R.Atre, learned Counsel for the respondents, opposes the Miscellaneous petition for condonation of delay.

5. We are of the view that all the facts and circumstances stated by the applicant constitute a sufficient ground for condonation of delay in making the application. We therefore allow Miscellaneous Petition No.84 of 1987 and condone the delay in making the application under Sec.19 of the Act.

6. After



6. After allowing the application for condonation of delay, we have heard both the sides on merits of the case also.

7. Mr.Niley contends that the findings of the authorities are based on 'no evidence'.

8. The applicant was charged with gross dereliction of duty when he was working as a Shunter in one of the major railway stations of the country. We are of the view, the findings recorded by the authorities, which are based on legal evidence, do not justify our interference at all.

9. Mr.Niley next contends that the punishment of removal from service imposed against the applicant, who had rendered an unblemished service of 31 years, was totally disproportionate and justifies the authorities to impose a minor penalty and in any event, compulsory retirement.

10. Shri S.R.Atre contends that the quantum of punishment imposed should not be interfered with by this Tribunal.

11. We have examined the service records of the applicant. When the applicant was removed from service, he had rendered 31 years of service, which was fairly good. On these and all other relevant circumstances, we are of the view that punishment of removal from service was totally disproportionate and calls for modification to one of compulsory retirement from

service

service as on date he was removed from service. But, in doing so, having regard to the fact of delay in approaching this Tribunal, we are of the view that it would be proper to deny all arrears of pension except gratuity till 30-6-1987.

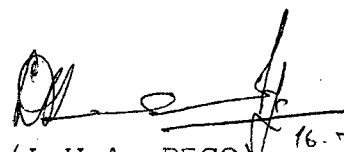
12. In the light of our above discussions, we make the following orders and directions:

(i) We dismiss this application in so far it challenges the orders of the authorities holding that the applicant was guilty on the charges levelled against him.

(ii) We allow this application in part and modify the punishment imposed on the applicant by the authorities, to one of ~~from service from 9-5-1984,~~ compulsory retirement, however denying all arrears of pension except gratuity till 30-6-1987 only. In other words, the applicant will be entitled to actual pension from 1-7-1987 and gratuity due to him as on 9-5-1984.

13. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

  
(K.S. PUTTASWAMY)  
VICE CHAIRMAN.

  
(L.H.A. REGO) 16.7.87  
MEMBER(A).